

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

MOONSCOOP SAS,	)	CASE 1:09-CV-01885-JG
	)	
Plaintiff,	)	JUDGE JAMES GWIN
	)	
v.	)	
	)	
AMERICAN GREETINGS	)	<b>JOINT REQUEST TO INSTRUCT</b>
CORPORATION, et al.,	)	<b>PROSPECTIVE JURORS ON THE</b>
	)	<b>NATURE OF THE CASE</b>
Defendants.	)	

In an effort to shorten the amount of time required for voir dire, all of the parties respectfully request the Court to use the attached agreed upon instruction before voir dire to inform the prospective jurors of the nature of the case.

Respectfully submitted,

s/ Damond R. Mace

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## PRE VOIR DIRE INSTRUCTION

The Plaintiff in this case is MoonScoop SAS. MoonScoop is a French international children's entertainment and licensing company. The Defendants are American Greetings Corporation, an Ohio company that is well-known for greeting cards, and Those Characters From Cleveland, Inc., which is a subsidiary of American Greetings. You will also hear mention of Mike Young Productions (now named MoonScoop LLC), which is majority owned by MoonScoop. You will also hear references to Cookie Jar Entertainment, which is a children's entertainment production and licensing company, Classic Media, a children's entertainment production and licensing company, and GCTR, a company that formerly owned Classic Media.

This is a breach of contract action. American Greetings and MoonScoop entered into a binding term sheet on March 24, 2009 involving the animated characters Strawberry Shortcake and Care Bears. MoonScoop contends that it agreed to buy all of American Greetings' interests in Strawberry Shortcake and Care Bears, plus the interests of a third party, Cookie Jar.

Prior to entering the contract with MoonScoop, American Greetings had a separate, preexisting contract with Cookie Jar that allowed American Greetings to shop all of American Greetings' rights in Strawberry Shortcake and Care Bears, plus all of Cookie Jar's interests related to Strawberry Shortcake. The Cookie Jar agreement had a provision for Cookie Jar to voluntarily "tag along" with the sale of the rights, and a "drag along" provision. MoonScoop and American Greetings dispute whether the drag along provision in the Cookie Jar agreement was self-executing, and would take effect automatically.

MoonScoop claims that the drag along was not self-executing, and that American Greetings breached its obligations under the March 24, 2009 Term Sheet. MoonScoop claims that American Greetings was required to deliver the properties to MoonScoop free and clear of all liens, claims, security interests and encumbrances, and failed to do so.

American Greetings claims that the drag along was self-executing, would take effect upon a specified payment to Cookie Jar, and that MoonScoop prevented the drag along of Cookie Jar's rights by failing to timely pay the purchase price. American Greetings also claims that certain conditions precedent stated in the March 24, 2009 binding term sheet between MoonScoop and American Greetings were not satisfied or waived by June 7, 2009.<sup>1</sup>

American Greetings specifically denies that it breached any of American Greetings' material obligations under the March 24, 2009 Term Sheet.

American Greetings and MoonScoop also dispute whether the other party was ready, willing, and able to perform its respective obligations under the Term Sheet.

Both parties will explain their respective claims in more detail during opening statements.

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<sup>1</sup> MoonScoop believes that the last sentence of this paragraph should be deleted if the Court grants its pending Motion In Limine To Strike Certain AG Defenses [Dkt. No. 168].

**CERTIFICATE OF SERVICE**

I hereby certify that on this 10th day of November 2012, a copy of the foregoing was electronically filed. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's electronic docket system.

*s/ Damond R. Mace*

One of the Attorneys for American Greetings